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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,378	02/21/2007	Wijbe Dijkstra	0470-061494	8238

28289 7590 04/26/2010  
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EXAMINER
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HAUTH, GALEN H

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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04/26/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/579,378	<b>Applicant(s)</b> DIJKSTRA ET AL.	
	<b>Examiner</b> GALEN HAUTH	<b>Art Unit</b> 1791	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) 25-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/26/2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Election/Restrictions***

1. Applicant's election with traverse of group 1, drawn to a method for punching a part out of a larger part, in the reply filed on 02/15/2010 is acknowledged. The traversal is on the ground(s) that a search of groups 1-4 would not unduly burden the examiner. This is not found persuasive because the groups are subject to restriction under PCT rule 13.1 requiring a special technical feature between the groups which was found to not be present in view of the prior art *a posteriori*.

The requirement is still deemed proper and is therefore made FINAL.

2. Acknowledgment is made to the inclusion of claim 24 in group 1.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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5. Claims 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bronson (PN 1904268) in view of Mojonnier (PN 3461756).

a. With regards to claim 16, Bronson teaches a method for punching a formed article from a web (punching a part from a larger part) in which the cutting die moves towards the larger part and removes the article from the web (pg 3 col 1 ln 45-50, Fig. 1). Bronson teaches that the material is a fibrous material (pg 1 col 1 ln 1-4). Bronson does not teach a clamp or bearer for the larger part.

b. Mojonnier teaches a method for trimming formed articles from a web in which the web and preform are clamped between an outer punch and an inner shaping member (bearer) and trimmed to remove the article from the web (col 1 ln 14-20, Fig. 1-3). Mojonnier teaches that the bearers prevent distortion of the preform (col 5 ln 1-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the shaping member and clamping apparatus of Mojonnier in the method of Bronson, because both relate to the trimming of formed articles from a larger web presenting a reasonable expectation of success, and doing so prevents distortion of the preform.

c. With regards to claim 17, Mojonnier teaches that the cutting die produces the punched out part (Fig. 1-3, the punched out part is produced when the cutting die trims the article from the web).

d. With regards to claim 18, Mojonnier teaches using a three dimensional bearer (Fig. 1).

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- e. With regards to claim 19, Mojonnier teaches the ability to trim along a line that lies outside of the plane of the web producing a spout flange (Fig. 7-9, col 6 ln 53-75). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the out of plane cutting method of Mojonnier in the method of Bronson, because both relate to the trimming of preformed articles from a larger web presenting a reasonable expectation of success, and doing so allows for an increased number of shapes capable of being produced.
- f. With regards to claim 20, Mojonnier teaches punching openings in the shaped part (col 7 ln 10-15).
- g. With regards to claims 21 and 22, Bronson teaches using a fibrous web material (pg 1 col 1 ln 1-5).
- h. With regards to claim 23, Bronson teaches producing the surrounding sheet from the mold onto a roll (pg 1 col 2 ln 75-78).
- i. With regards to claim 24, Mojonnier teaches using a top and bottom mold part for clamping and punching the part (Fig. 1-3).

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 24 recites the limitation "the further bearer" in last line of the claim. There is insufficient antecedent basis for this limitation in the claim.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GALEN HAUTH whose telephone number is (571)270-5516. The examiner can normally be reached on Monday to Thursday 8:30am-5:00pm ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571)272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GHH/

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/Christina Johnson/

Supervisory Patent Examiner, Art Unit 1791